

ORIGINAL

FILED  
U.S. DISTRICT COURT  
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT

2014 JUN -3 PM 3:17

FOR THE SOUTHERN DISTRICT OF GEORGIA

CLERK C Adams  
SO. DIST. OF GA.

DUBLIN DIVISION

MORRIS SCOTT HOLMES,

Plaintiff,

v.

BARBARA DALRYMPLE, Doctor,  
Johnson State Prison, et al.,

Defendants.

CV 312-099

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**ORDER**

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After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed.<sup>1</sup> The Magistrate Judge recommended dismissal of this case because Plaintiff was not entitled to proceed *in forma pauperis* ("IFP") pursuant to the three strikes provision of 28 U.S.C. § 1915(g), and he failed to pay the filing fee as directed in the Magistrate Judge's March 6, 2014 Order. (Doc. no. 87.)

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<sup>1</sup>The deadline for submitting objections was May 8, 2014. (Doc. no. 88.) Plaintiff's objections dated May 17, 2014, and his amended objections dated May 21 and May 23, 2014, are therefore untimely. (Doc. nos. 94, 96, 97.) However, on May 17 Plaintiff also filed a motion requesting an extension of time to file objections, which the Court construes as a motion to accept his objections out of time. (Doc. no. 93.) In the motion, Plaintiff claims he did not receive the Report and Recommendation and accompanying Order until May 14, 2014. (*Id.*) Thus, the Court **GRANTS** Plaintiff's request and will consider his original and amended objections.

In his objections, Plaintiff argues the Magistrate Judge improperly vacated his IFP status because he does not have three strikes and because he was in imminent danger at the time of filing such that he qualifies for the exception to § 1915(g). (See doc. nos. 94, 96, 97.) However, Plaintiff merely reiterates the same arguments he made in response to Defendants' motion to vacate his IFP status. (Doc. nos. 75, 79.) Furthermore, the Magistrate Judge discussed Plaintiff's assertion that he was in imminent danger at the time of filing and found his allegations wholly insufficient to satisfy the exception (doc. no. 83, p. 4). Therefore, the Court **OVERRULES** Plaintiff's original and amended objections because they do not provide any reason to depart from the conclusions in the Report and Recommendation.

In addition to his objections, Plaintiff has filed several unrelated motions requesting that the Court appoint counsel to represent him, issue an injunction regarding mail procedures at his prison, and admit evidence. (Doc. nos. 89, 90, 91, 92.) Because the Court is dismissing this case due to Plaintiff's failure to pay the filing fee, the Court **DENIES AS MOOT** Plaintiff's motions.

Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **DENIES AS MOOT** Plaintiff's motion to compel (doc. no. 86), and **DISMISSES** this case.

SO ORDERED this 3<sup>rd</sup> day of June, 2014, at Augusta, Georgia.

  
UNITED STATES DISTRICT JUDGE